

AMENDED IN ASSEMBLY AUGUST 14, 2006

AMENDED IN SENATE MAY 26, 2006

AMENDED IN SENATE APRIL 19, 2006

**SENATE BILL**

**No. 1674**

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**Introduced by Senator Murray**

(Principal coauthor: Assembly Member Negrete McLeod)

**(Coauthors: Senators Ashburn, Denham, Maldonado, and  
Romero)**

(Coauthors: Assembly Members Chan, Garcia, Koretz, Leno, Lieber,  
Matthews, and Yee)

February 24, 2006

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An act to amend Sections 41350, 49430.5, 49531, and 49536 of,  
*and to add Section 49437 to*, the Education Code, relating to school  
meals.

LEGISLATIVE COUNSEL'S DIGEST

SB 1674, as amended, Murray. Public schools: meal  
reimbursement.

(1) Existing law requires the Superintendent of Public Instruction to make allowances for child nutrition to child nutrition entities, as defined, based on reimbursement rates for free and reduced-price meals and to school districts and county superintendents of schools for the differences between the current fiscal year average statewide cost for all free and reduced-price meals and the total income per meal, as specified.

Existing law permits any child nutrition entity to apply to the State Department of Education for all available federal and state funds so that a nutritionally adequate breakfast or lunch, or both, may be

provided to pupils each schoolday at each school in the districts or maintained by the county superintendents of schools, or at private schools and parochial schools and to children receiving child development services. Existing law limits state reimbursement to meals provided to pupils who are within the relevant definitions and criteria in federal statutes and regulations that prescribe eligibility for free and reduced-price meals.

Existing law requires the department, prior to July 1 each year, to prescribe an adjustment in the established state meal contribution rates based on the specified cost-of-living adjustment.

Existing law ~~requires that~~ *sets* the per meal reimbursement rate received by elementary ~~and, middle, and high~~ schools for free and reduced-price meals ~~be increased to 23¢ at 21¢. Existing law also establishes a per meal reimbursement rate of 10¢ for meals sold at full price in elementary and middle schools.~~ Existing law requires schools to follow specified state and federal guidelines in order to qualify for reimbursement. Existing law requires that the reimbursement rates be adjusted annually for cost of living increases, as specified. ~~Existing law provides that these provisions are only operative if moneys were appropriated as specified.~~

This bill would ~~provide~~ *require* the increased reimbursement rate for free and reduced-price meals ~~and a reimbursement rate for full price meals for those child nutrition entities, instead of only schools, that follow specified state and federal nutrition guidelines to be increased by 7¢.~~ The bill would specify that the adjustment to the reimbursement rate be completed by the department by July 1 of each year. ~~The bill would make the increased reimbursement rates available immediately to qualifying child nutrition entities by removing the provision that made the operation of the new meal reimbursement rates contingent on the appropriation of moneys for these purposes on or before January 1, 2004.~~

(2) The bill also would make conforming and technical, nonsubstantive changes to the provisions of existing law.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 41350 of the Education Code is  
2 amended to read:

1 41350. The Superintendent shall make allowances for child  
2 nutrition as follows:

3 (a) Reimbursement of child nutrition entities, as defined by  
4 Section 49530.5, *and other educational entities specified*  
5 *pursuant to Section 49430.5* for all free, reduced-price, and paid  
6 meals, pursuant to Sections 49430.5 and 49536.

7 (b) Reimbursement of school districts and county  
8 superintendents of schools for the difference between the current  
9 fiscal year average statewide lunch or breakfast cost for all free  
10 and reduced-price meals required by Section 49550 as  
11 determined by the Superintendent and the combined total income  
12 per meal derived from pupil charges, federal funds, and state  
13 funds as provided in Article 11 (commencing with Section  
14 49550) of Chapter 9 of Part 27.

15 (c) The combined state and federal reimbursements shall not  
16 exceed the current fiscal year average statewide lunch or  
17 breakfast cost. If the combined pupil charges, state  
18 reimbursements, and federal reimbursements exceed the current  
19 average statewide lunch or breakfast costs, the federal funds shall  
20 be expended prior to the expenditure of any state funds.

21 *SEC. 2. Section 49430.5 of the Education Code is amended to*  
22 *read:*

23 49430.5. (a) The reimbursement a school or child  
24 development program operated pursuant to Chapter 2  
25 (commencing with Section 8200) or Chapter 2.5 (commencing  
26 with Section 8400) of Part 6 receives beyond the reimbursement  
27 rate provided pursuant to Section 49536 for free and ~~reduced~~  
28 ~~price reduced-price~~ meals sold or served to pupils in elementary,  
29 ~~middle, or high schools included within a school district, charter~~  
30 ~~school, or county office of education shall be twenty-one cents~~  
31 ~~(\$0.21)~~ within a school district, charter school, or county office  
32 of education shall be increased by seven cents (\$0.07).

33 ~~(b) To qualify for the reimbursement for free and reduced~~  
34 ~~price meals provided to pupils in elementary, middle, or high~~  
35 ~~schools, a school shall follow the Enhanced Food-Based Meal~~  
36 ~~Pattern, Nutrient Standard Meal Planning, or Traditional Meal~~  
37 ~~Pattern developed by the United States Department of~~  
38 ~~Agriculture or the SHAPE Menu Patterns developed by the state.~~

39 (e)

1     (b) In order to qualify to receive the reimbursement increase  
2     pursuant to subdivision (a), a school as defined in subdivision (a)  
3     shall satisfy both of the following:

4     (1) Follow the United States Department of Agriculture  
5     (USDA) nutritional guidelines through the use of any of the  
6     following:

7     (A) The Traditional Food-Based Planning Approach,  
8     Enhanced Food-Based Menu Planning Approach, or Nutrient  
9     Standard Menu Planning Approach, developed by the USDA.

10    (B) Any USDA-approved Alternate Menu Planning Approach  
11    (Any Reasonable Approach), which includes California's  
12    Shaping Health as Partners in Education (SHAPE) menu  
13    patterns, as approved by the department.

14    (C) Any other USDA-approved meal pattern or menu  
15    planning.

16    (2) Not sell or serve any food item whose final preparation  
17    method prior to serving requires the item to be deep fried.

18    (c) In order to qualify to receive the reimbursement increase  
19    pursuant to subdivision (a), a child development program as  
20    defined in subdivision (a) shall satisfy both of the following:

21    (1) Meet developmentally and programmatically appropriate  
22    meal pattern or meal planning requirements developed by the  
23    USDA.

24    (2) Not sell or serve any food item whose final preparation  
25    method prior to serving requires the item to be deep fried.

26    (d) A school district, charter school, county office of  
27    education, or child development program defined in subdivision  
28    (a) shall notify the department of an intent to self-certify  
29    compliance with paragraph (2) of subdivision (b) or paragraph  
30    (2) of subdivision (c) in order to receive the reimbursement  
31    specified in subdivision (a) for the 2006–07 fiscal year.

32    (e) Beginning July 1, 2007, in order to be eligible to receive  
33    the reimbursement specified in subdivision (a), a school district,  
34    charter school, county office of education, or child development  
35    program defined in subdivision (a) shall provide the department  
36    with a one-time certification of compliance with paragraph (2) of  
37    subdivision (b) or paragraph (2) of subdivision (c).

38    (f) The reimbursement rates set forth in this section shall be  
39    adjusted annually for increases in cost of living in the same  
40    manner set forth in Section 42238.1.

1 (g) A school or child development program that meets the  
2 definition in subdivision (a) may apply for the reimbursement  
3 provided by this section and any other reimbursements provided  
4 by this code.

5 SEC. 2. Section 49430.5 of the Education Code is amended to  
6 read:

7 49430.5. (a) To qualify for increased reimbursement for free  
8 and reduced-price meals above the rates set pursuant to Section  
9 49536 and for the reimbursement for meals sold at full price, a  
10 child nutrition entity, as defined by Section 49530.5, shall follow  
11 the United States Department of Agriculture's Enhanced Food  
12 Based Meal Pattern, the United States Department of  
13 Agriculture's Nutrient Standard Menu Planning, California's  
14 SHAPE Menu Patterns, or the USDA Traditional Meal Pattern.

15 (b) Each child nutrition entity, as defined by Section 49530.5,  
16 that satisfies subdivision (a) shall receive:

17 (1) Twenty-three cents (\$0.23) for each free or reduced-price  
18 meal sold or served to its pupils.

19 (2) Ten cents (\$0.10) for each full price meal sold to its pupils.

20 (c) The reimbursement rates set forth in subdivision (b) shall  
21 be adjusted prior to July 1 of each year by the department for  
22 increases in cost of living in the same manner set forth in Section  
23 42238.1.

24 (d) A child nutrition entity, as defined by Section 49530.5, not  
25 satisfying subdivision (a) that is otherwise eligible for state meal  
26 reimbursement shall receive the reimbursement rates established  
27 pursuant to Section 49536.

28 (e) A child nutrition entity, as defined by Section 49530.5, that  
29 satisfies subdivision (a) may apply for the reimbursement  
30 provided by this section pursuant to Section 49531 and shall be  
31 allocated the funds for the reimbursement pursuant to Section  
32 41350.

33 SEC. 3. Section 49437 is added to the Education Code, to  
34 read:

35 49437. For purposes of this article, "deep fried" means any  
36 food item that is cooked by total submersion in oil or fat.

37 SEC. 3.

38 SEC. 4. Section 49531 of the Education Code is amended to  
39 read:

1 49531. (a) ~~A child nutrition entity, as defined by Section~~  
2 ~~49530.5~~ *Any child nutrition entity or other educational entity*  
3 *specified in Section 49430.5*, may apply to the State Department  
4 of Education for all available and applicable federal and state  
5 funds so that a nutritionally adequate breakfast or lunch, or both,  
6 may be provided to pupils each schoolday at each school in the  
7 districts or maintained by the county superintendents of schools,  
8 or at private schools and parochial schools and to children  
9 receiving child development services. The state board shall adopt  
10 rules and regulations for the operation of lunch and breakfast  
11 programs in school districts. A child nutrition entity that receives  
12 state funds pursuant to this article, shall provide breakfasts and  
13 lunches in accordance with state and federal guidelines.

14 (b) A nutritionally adequate breakfast, for purposes of this  
15 article, is one that qualifies for reimbursement under the federal  
16 child nutrition program regulations, meets a minimum of  
17 one-fourth of the current Recommended Dietary Allowance  
18 established by the National Research Council, and incorporates  
19 the current United States Dietary Guidelines for Americans. A  
20 nutritionally adequate lunch is one that qualifies for  
21 reimbursement under the federal child nutrition program  
22 regulations, meets one-third of the Recommended Dietary  
23 Allowance established by the National Research Council, and  
24 incorporates the current United States Dietary Guidelines for  
25 Americans.

26 (c) State reimbursement for free and reduced-price meals  
27 provided pursuant to this article or Section 49430.5 shall be  
28 limited to meals provided to pupils who are within the relevant  
29 definitions and criteria in federal statutes and regulations that  
30 prescribe eligibility for free and reduced-price meals. ~~State~~  
31 ~~reimbursement for full-price meals provided pursuant to Section~~  
32 ~~49430.5 shall not be limited to those eligibility guidelines.~~

33 ~~SEC. 4.~~

34 *SEC. 5.* Section 49536 of the Education Code is amended to  
35 read:

36 49536. (a) The State Department of Education shall, prior to  
37 July 1 of each year, prescribe an adjustment in the state meal  
38 contribution rates established pursuant to this section for the  
39 forthcoming fiscal year. The adjustments shall reflect the changes

1 in the cost of operating a school breakfast and lunch program and  
2 shall be made commencing on July 1 of each year.

3 (b) The cost-of-living adjustment pursuant to subdivision (a)  
4 shall be equal to the percentage change determined pursuant to  
5 subdivision (b) of Section 42238.1.

6 (c) The reimbursement rates established pursuant to this  
7 section shall be the base reimbursement rates for free and  
8 reduced-price meals provided pursuant to this article. ~~Increased~~  
9 ~~reimbursement rates and reimbursement rates for full-price meals~~  
10 ~~shall be made available to qualifying schools pursuant to Section~~  
11 ~~49430.5.~~